

This letter describes how a three-part prescription label is subject to Retailers' Occupation Tax liability even though one-third of the label is used as part of the packaging of the prescriptions. See 86 Ill. Adm. Code 130.1401. (This is a GIL).

November 2, 2001

Dear Xxxxx:

This letter is in response to your letter dated August 31, 2001. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We have a question on sales tax on labels in Illinois.

A 3 part pharmacy label for pharmacists. One part is affixed to the prescription bottle when filled. Second part is given to customer as a receipt. Third part is kept by pharmacist for his accounting records.

Our question is whether the sales of three part pharmacy labels to pharmacists is taxable or not in Illinois. We hope to get the answer from you as soon as possible.

You can email us.

Thanks

DEPARTMENT'S RESPONSE:

Tangible personal property sold to a serviceman, such as a pharmacist, for use in his service business is generally subject to sales tax depending upon the tax base the serviceman has chosen. For your general information we are enclosing copies of 86 Ill. Adm. Code 140.101 through 140.109 regarding sales of service and Service Occupation Tax.

We cannot give you a specific answer based upon the limited information in your letter. The different parts of the label have different taxable uses. If more than 50% of the value of a set or multiple part item being sold would be subject to tax, then the entire set or multiple part item is subject to tax. In your situation, if more than 50% of the value of the multiple part labels are used in a taxable manner, the entire selling price of the labels would be subject to tax.

The first part of the label becomes a component of the packaging of the prescription. If this part of the label were sold separately, this part of the label could be purchased for resale by the pharmacists depending upon the tax base chosen by the pharmacist under the Service Occupation Tax Act as referenced above. See the enclosed copy of 86 Ill. Adm. Code 130.1401.

The third part of the label is kept by the pharmacist for his records. The use of that part of the label is considered a taxable use by the pharmacist. See 86 Ill. Adm. Code 150.101.

Based on the limited description of the part of the label that is given to the customer as a receipt, we cannot determine whether that part of the label would be subject to tax or not. The use of this part of the label would be determinative of the taxation of the entire 3-part pharmacy label because its use will determine whether more than 50% of the value of the multiple part labels are used in a taxable manner or not.

Generally, a receipt given to a customer is considered a taxable use of that receipt by the seller similar to providing the customer with a written bill or invoice at the time of purchase. However, if this part of the label provides further information for the customer, such as dosage amounts, warnings, or other information regarding the proper use of the prescription, this part of the label may be considered a non-taxable component of the item being sold.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.